

OPENING REMARKS

CHAIRMAN MAJORAS: Well, thank you so very much, Jim. It's terrific to be here. I welcome everyone to Washington and, particularly, our participants in this workshop. I also want to give a special welcome to those joining us by webcast. I must say this is one of our best attended workshops we have had in a while. And, so, together with our webcast participants, I think we're going to have just a tremendous dialogue. So, thank you for being here.

Why are we here? Well, from the sun belt to the rust belt to the beltway, consumers are showing increasing interest in environmental issues and, importantly, this interest may be influencing their purchasing decisions. In a recent USA Today Gallup poll, more than eight in ten Americans said that a company's environmental record should be an important factor in deciding whether to buy its products.

Businesses have taken notice, and in the past year there's been a virtual explosion of green marketing. NBC devoted an entire week to green programming. The current issue of Good Housekeeping includes a piece of how to buy green and not get fooled. Other magazines like Vanity Fair have released green issues and retailers like Wal-Mart and Home Depot have launched green product

1 lines.

2 In response to this rise in green marketing, we
3 have accelerated our review of the FTC's Green Guides,
4 which were first issued in 1992 and then updated in 1998.
5 We do a regular review on a schedule of our guides and
6 rules, but this one we have decided we need to do at an
7 accelerated pace.

8 Now, for some of you here today, this may be
9 your first exposure to the FTC, so let me just tell you a
10 little bit about who we are and what we do. Our two
11 fundamental missions are to promote and safeguard
12 competition and to protect consumers. We're a relatively
13 small agency with about just under 1100 employees, but we
14 not only tackle a wide range of prominent competition but
15 consumer protection issues which we'll focus on today.
16 From spam to spyware to mortgage fraud, media violence to
17 mobile marketing, data security to debt collection. And,
18 of course, we run the national Do Not Call Registry.

19 In the advertising realm, our fundamental tool
20 is the FTC Act which prohibits unfair or deceptive trade
21 practices. So, for marketers, the basic rule to remember
22 is that any material misrepresentation, omission or
23 practice is deceptive if it's likely to mislead consumers
24 who are acting reasonably. In short, marketers have to
25 have a reasonable basis to support their advertising

1 claims.

2 Now, our job is not to substitute our judgment
3 for that of consumers or to save them from making bad
4 choices, which unfortunately we all do sometimes.
5 Rather, it's to ensure that they obtain the truthful
6 information that they need to make their own choices.
7 And when markets function in this way, consumers win.
8 They secure a broader selection of innovative products at
9 lower prices.

10 In fulfilling our mission at the FTC, we employ
11 a variety of tools, including law enforcement, market
12 research, business education, consumer education, and the
13 encouragement of sound, self-regulation in the industrial
14 realm. Over the years, our work in the energy and
15 environmental fields has underscored this multi-tiered
16 approach. We've challenged deceptive practices in court,
17 we've published information to help consumers make
18 informed green purchasing decisions, and we've
19 promulgated rules and guides to make the rules of road in
20 this area clear for business. We've also encouraged well
21 constructed industry self-regulatory programs as a way to
22 compliment our own government efforts.

23 The FTC's Green Guides apply the FTC Act to
24 environmental advertising and marketing practices and
25 offer marketers general principles on how to avoid making

1 misleading claims. The guides also provide guidance to
2 marketers on specific claims such as what is meant by
3 environmentally friendly, recyclable, compostable. Since
4 the guides were last revised in 1998, of course, the
5 market has experienced the increased use of these terms
6 to promote the green attributes of products, their
7 packaging, their manufacturing processes. But we've also
8 had the introduction, of course, of new terms like
9 sustainable, bio-based, cradle to cradle, and carbon
10 neutral.

11 Given the dynamic nature of this marketplace,
12 it's important that the guides are responding to today's
13 challenges and to consumer perceptions currently of these
14 environmental claims. After all, consumers today have
15 the option to purchase products and use them in ways that
16 were unforeseen 15 years ago, when we first developed our
17 guides, and consumer perceptions of old green claims may
18 have evolved significantly over time. Our robust review
19 of these guides will allow us to explore emerging
20 consumer protection issues and provide better direction
21 to green marketers.

22 Now, as is usual in reviewing a rule or guide,
23 the FTC is seeking public comment on the continuing need
24 for the guides, their economic impact, the affect of the
25 guides on the accuracy of various environmental claims,

1 and the interaction of the guides with other
2 environmental marketing regulations.

3 Given the explosion in the role of green
4 marketing, though, we also decided to hold a series of
5 public workshops on emerging green marketing issues.
6 What we have found is that holding these types of
7 workshops, and we do it on a whole variety of issues
8 within our jurisdiction, provides us with an effective
9 and very open way to take in and test the perspectives of
10 various experts and stakeholders in these areas.

11 Today's event, the first in a series, focuses
12 on carbon offsets and renewable energy certificates, or
13 RECs, which are among the new products not addressed
14 specifically today by the Green Guides. Carbon offsets
15 and RECs are separate yet closely related products in
16 this marketplace and, as many of you know, I'm quite
17 certain, carbon offsets which are available now for
18 purchase frequently serve as the basis for claims that
19 greenhouse gas emissions are reduced. The offsets are
20 memorialized in credits or certificates that purportedly
21 represent measurable reductions in greenhouse emissions
22 accomplished through such activities as methane capturing
23 or tree planting.

24 RECs, on the other hand, serve as a new means
25 to market renewable energy. RECs represent the renewable

1 attributes of electricity from wind, solar and other
2 renewable energy sources and are sold separately from the
3 electricity produced. As is the case with carbon
4 offsets, companies and individuals can purchase RECs to
5 offset emissions associated with their own activities.
6 In an effort to become carbon neutral, many purchasers
7 seek to obtain enough offsets to match their own
8 emissions.

9 The term "carbon neutral" has received a lot of
10 attention. Indeed, early last year, the new Oxford
11 American Dictionary added the word "carbon neutral"
12 having named it the 2006 word of the year. I didn't know
13 such a thing existed. Last year, consumers watched a
14 carbon neutral Superbowl, Academy Awards telecast, and
15 NASCAR race.

16 Interest in carbon offsets and RECs, however,
17 has not been limited to football fans, Oscar winners and
18 racing enthusiasts. According to a recent Business Week
19 article, the market for carbon offsets in the U.S. could
20 be as high as \$100 million, and the New York Times
21 reported that the number of offsets sold by online
22 realtors grew by more than 42 percent from 2005 to 2006
23 and continued to grow at a steep rate during 2007. The
24 sale of carbon offsets and RECs, if marketed truthfully,
25 can provide interested consumers the opportunity to

1 participate in this market for products and services that
2 may reduce emissions.

3 To explore the consumer protection issues
4 raised by this emerging market, throughout the day,
5 experts from environmental organizations, industry,
6 government and academia will address the technical and
7 marketing issues posed by carbon offsets and RECs. These
8 experts will discuss a wide range of issues related to
9 these products, including efforts by a variety of
10 organizations in the U.S. and internationally to develop
11 methods for substantiating these claims, as well as
12 discussing new and ongoing self-regulatory and
13 certification efforts.

14 We hope that our discussions today can play an
15 important role in furthering our collective understanding
16 of the challenges that are presented here, and let me
17 throw out a couple that we see.

18 For example, unlike tangible goods like cars or
19 breakfast cereal, carbon offsets and RECs don't offer
20 consumers an easy way to verify that they're receiving
21 the product for which they paid. Many of the products
22 funded by the sale of RECs or carbon offsets occur in
23 places remote from consumers, whether the activity is
24 planting trees in another country or subsidizing wind-
25 powered energy across the U.S. Moreover, even if

1 consumers could see the project in action, most of us
2 would have great difficulty in confirming that our offset
3 purchase actually funds that particular project, or that
4 the project would not have happened without our purchase,
5 or for that matter that the project actually reduces
6 atmospheric carbon in the amount that's claimed. Simply
7 put, with this much uncertainty, there's a heightened
8 potential for deception.

9 In addition, these new products raise questions
10 of consumer interpretations. So, for example, when
11 consumers buy offsets, do they know what they're
12 purchasing? How do they interpret express claims about
13 the general environmental benefits of the products and
14 what implied claims are consumers taking away from this
15 marketing? And, of course, substantiating claims may
16 pose challenges for marketers.

17 Marketers first have to ensure that both the
18 express and implied claims are based on competent and
19 reliable evidence. If you say that your product offsets
20 a certain amount of atmospheric carbon, then it should do
21 just that. Additionally, even when the science is sound,
22 other substantiation issues may arise. For example,
23 sales of offsets and RECs may involve multiple
24 transactions in a variety of different entities, and
25 inadequate tracking and verification systems could lead

1 even those sellers acting in good faith to inadvertently
2 sell the same product more than once. Unfortunately,
3 these realities could also create opportunities for bad
4 actors to deceive consumers.

5 So, today, we're going to explore these and
6 other issues to determine the best way for the FTC to
7 protect consumers in these burgeoning markets. A deeper
8 understanding not only would help us combat fraud in the
9 future, but will help us provide better guidance to
10 marketers seeking to make truthful claims and also to
11 provide guidance to consumers in making purchasing
12 decisions.

13 Consistent with our past efforts on green
14 matters, though, I want to make clear that we don't plan
15 to develop environmental performance standards. We don't
16 have the authority or the technical expertise to address
17 issues of environmental or energy regulation, per se.
18 Nor are we in the business of mandating environmentally
19 preferable practices. Instead, our efforts will focus on
20 our traditional consumer protection role addressing
21 deceptive and unfair practices under the FTC Act. And as
22 part of this effort, we are seeking to determine whether
23 additional FTC guidance is warranted and, if so, what
24 that guidance should be.

25 We have an impressive group assembled here

1 today, so I am confident that we are all going to leave
2 better informed than when we arrived. So, again, I want
3 to thank you for your interest and participation in these
4 very important issues, and my special thanks to the
5 panelists for taking time to lend us your expertise.
6 Have a good day. Thank you.

7 **(Applause.)**